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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,738	11/01/2006	Takeshi Koda	8048-1179	1231
466 7590 04/30/2009 YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			EXAMINER SHEN, KEZHEN	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 04/30/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/590,738

**Applicant(s)**

KODA ET AL.

**Examiner**

Kezhen Shen

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program is merely a set of instructions capable of being implemented by a computer. However, by itself without being encoded onto a computer-readable medium is not realizable. Hence, claim 10 contains merely nonstatutory functional descriptive material. See MPEP 2106: IV(B)(1)(a), last paragraph.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Junsaku et al. JP 2002-216361.

Regarding claim 6, Junsaku et al. teach an information recording apparatus comprising: a writing device capable of writing record information onto an information recording medium comprising first and second recording layers (3 and 2 of Drawing 3, [0036]), a first controlling device for controlling said writing device to continuously write

the record information into the first and second recording layers (3 and 2 of Drawing 3, [0034] – [0037], [0048]), a second controlling device for controlling said writing device to write a predetermined amount of buffer data on an outer circumferential side of the record information written in the first and second recording layers ([0046] - [0048] the non-record section can be recorded) and a third controlling device for controlling said writing device to add buffer data on an outer circumferential side of the predetermined amount of buffer data (8a-8d of Drawing 3, [0046]). In regards to the first, second and third controlling device as claimed by the applicant, the examiner interprets the teachings of Junsaku et al. to teach these as one controller ([0028] – [0029]).

Regarding claim 7, Junsaku et al. teach the information recording apparatus according to claim 6, wherein said second controlling device responds to a first border close instruction after the record information is recorded over the first and second recording layers (8a-8d Drawing 3a-3b, [0046] – [0048]).

Regarding claim 8, Junsaku et al. teach the information recording apparatus according to claim 7, wherein said third controlling device responds to a finalize instruction ([0078] – [0083]).

Regarding claim 9, the limitations have been analyzed and rejected with respect to the reasons given above in claim 6. Further, one of ordinary skill in the art would have recognized the need for a method to operate the apparatus as claimed in claim 6.

Regarding claim 10, the limitations have been analyzed and rejected with respect to the reasons given above in claims 6 and 9.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kezhen Shen whose telephone number is (571) 270-1815. The examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kezhen Shen/  
Examiner, Art Unit 2627

/Joseph H. Feild/  
Supervisory Patent Examiner, Art  
Unit 2627